

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

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FILE:

B-214594

DATE:

March 20, 1984

MATTER OF:

Five Starr Fabricators, Inc.

DIGEST:

Protest of agency determination that small business bidder is nonresponsible is dismissed since by law the Small Business Administration, to which the matter has been referred, conclusively determines the responsibility of small business bidders.

Five Starr Fabricators, Inc. protests the determination by the Department of the Army that it is not a responsible prospective contractor under solicitation No. DAAJ09-83-B-A803. Five Starr asserts that the preaward survey performed for the contracting agency by the Defense Contract Administrative Services Region-Philadelphia was faulty in that it did not accurately assess Five Starr's financial status.

We have been informally advised by the Department of the Army that the protester is a small business and that the negative responsibility determination was forwarded to the Small Business Administration (SBA) for possible issuance of a certificate of competency (COC).

Under the law, it is the SBA, under the COC program, that conclusively determines whether a small business is responsible to perform a particular contract. 15 U.S.C. § 637(b)(7) (1982). Consequently, the protest does not raise an issue which this Office properly may consider. Gilbralter Industries, Inc., B-208130, August 3, 1982, 82-2 CPD 105. Moreover, the SBA determination generally is not reviewable in the absence of showing of possible fraud or bad faith on the part of Government officials or that material information was not considered by SBA. See

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Federal Services, Inc., B-205230, November 3, 1981, 81-2
CPD 381; Vernitron Corporation, B-201832.4, September 25,
1981, 81-2 CPD 250.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel